

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

LELAND D BOOTHE,

Petitioner,

VS.

NATHANIEL QUARTERMAN,

Respondent.

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CIVIL ACTION NO. C-06-221

ORDER

On February 27, 2008, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending dismissal of Petitioner Leland D. Boothe's petition for writ of habeas corpus (D.E. 105). The Memorandum and Recommendation recommends dismissal on the grounds that Petitioner's habeas petition is time-barred, and Petitioner is not entitled to equitable tolling of the limitations period set forth in the Antiterrorism and Effective Death Penalty Act ("AEDPA"). The Memorandum and Recommendation also recommends that Petitioner be granted a Certificate of Appealability.

Petitioner sought to file objections and an "amicus brief" with the Court, objecting to the portions of the Memorandum and Recommendation recommending dismissal of Petitioner's habeas petition (D.E. 106, 108). Even though the objections and amicus brief were not properly filed,¹ in the interests of justice these documents have been reviewed and considered by the Court.

¹Both the objections and the amicus brief were prepared by Wayne Ernest Barker, who classifies himself as Petitioner's "Inmate Legal Advisor." As Mr. Barker is not licensed to practice law in the State of Texas, Mr. Barker cannot represent Petitioner in these proceedings. Regardless, in the interests of justice, the Court has reviewed and considered the objections and amicus brief prepared by Mr. Barker in this case.


An evidentiary hearing was held regarding Petitioner's habeas petition on November 29-30, 2007. (See D.E. 97, 98, Transcripts). Having reviewed the Magistrate Judge's findings of fact and conclusions of law, the evidence presented at the evidentiary hearing, the briefs of the parties and the arguments of counsel, as well as having reviewed the Petitioner's objections and amicus brief, and having made a *de novo* disposition of those portions of the Magistrate Judge's recommended disposition to which objections were raised,² the Court hereby adopts as its own the findings and conclusions of the Magistrate Judge in the February 28, 2008 Memorandum and Recommendation.

This Court further finds after an independent review of the recorded hearing that no impediment existed that would have prevented Petitioner from timely filing his habeas corpus petition pursuant to 28 U.S.C. § 2254.

Accordingly, it is hereby ORDERED that the Petitioner's petition for writ of habeas corpus (D.E. 1) is DISMISSED. Petitioner is GRANTED a Certificate of Appealability.

The Clerk of Court shall enter this Order and provide a copy to all parties.

SIGNED and ORDERED this 15th day of April, 2008.


Janis Graham Jack
United States District Judge

²See Koetting v. Thompson, 995 F.2d 37 (5th Cir. 1993); 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b).